

IN THE UNITED STATES DISTRICT
COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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| UNITED STATES OF AMERICA | § | |
| | § | |
| VS. | § | |
| | § | CRIMINAL NO. H-19-CR-832-1 |
| GERALD M. GOINES | § | |
| | § | |

DEFENDANT’S MOTION TO LIFT STAY

On November 22, 2019, Judge Dena Palermo conducted a detention hearing which lasted approximately three hours. After considering thoughtfully the evidence presented at this hearing, Judge Palermo ordered the release of Gerald Goines on bond and set conditions of bond. Judge Bryan read those conditions of bond in court at 9:00 on Tuesday, November 26th. The government made an oral motion to stay the order granting bond, which was granted along with the instruction from Judge Bryan that the government follow up with a written motion for stay. Late yesterday, the government filed its motion also promising after the court’s inquiry regarding the same, the filing of the motion to revoke the next day.

Now, it is after 4:00 on the Wednesday afternoon before Thanksgiving. The government still has not filed its promised motion which was the reason for its requested stay of the release order. There is no reason for the government’s delay. The result of the delay is to make it unlikely, if not impossible, for the court to

evaluate the motion before the Thanksgiving holiday, meaning that Mr. Goines, who has been ordered released by Magistrate Judge Palermo, will remain in federal custody despite this order for over ten days. The law requires detention hearings be had in ten days, and this one was. The delay in the filing of any motion for the court to evaluate and thereby release Mr. Goines will cause a further delay likely to include the next four days of the Thanksgiving holiday and following weekend. This prolonged detention now amounts to a punishment of Mr. Goines. The Constitution places limitations on pretrial detentions as set forth in the eighth amendment confirming that "[e]xcessive bail shall not be required, * * *" in a criminal case, U.S. Const. amend. VIII, and the clearly expressed language of the Bail Reform Act of 1984 favors release over pretrial detention *United States v. Orta*, 760 F.2d 887, 890-91 (8th Cir.1985) (en banc). To further detain Mr. Goines while waiting for the government to file the motion it said it would file today is a violation of Mr. Goines's fifth amendment right to due process as well as a violation of his rights under the eighth amendment of the United States Constitution.

Should the court grant this motion to lift the stay in this matter, the state court order that Mr. Goines wear the electronic monitor would require that his monitor be immediately re-installed. This can be done at any time over the holiday weekend and would be required immediately upon release from custody. Mr. Goines has also

already been admonished concerning his conditions of bond in this court by Magistrate Judge Bryan.

We request that the stay issued in this matter be lifted prior to the Thanksgiving holiday and that Mr. Goines be released on bond as ordered by the magistrate court.

Respectfully submitted,

/s/ Nicole DeBorde

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Attorney for Defendant,
GERALD M. GOINES

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Defendant's Motion to Lift Stay has been delivered to AUSA Alamdar Hamdani via ECF filing to Alamdar.Hamdani@usdoj.gov on this the 27th day of November 2019.

/s/ Nicole DeBorde

NICOLE DEBORDE